

Darcy Gusse

§
§
§
§
§

IN THE

County

COURT

VS.

Christopher McCarthy

OF

Law #2 Wise

COUNTY, TEXAS

AMENDED Temporary Ex Parte Order

Go to the court hearing on: October 8, 2024 at 1:00 P.M.

Court Address: 1007 13th Street, Bridgeport, Tx 76426.

FILED

8:25 A.M.

September 25, 2024

LOUCRECIA BIGGERSTAFF
DISTRICT CLERK-WISE COUNTY, TX
BY Janell Kell DEPUTY

1. APPLICANT

*Name:

Darcy Gusse

*County of Residence:

Wise

2. RESPONDENT (INCLUDES OFFENDERS) / ORDER ISSUED AGAINST

*Name:

Christopher McCarthy

*County of Residence:

Wise

3. AND / OR ON BEHALF OF MINOR FAMILY MEMBERS / PROTECTED PERSON(S)

(Provide the name for each minor added)

*Name:

*Name:

*Name:

*Name:

4. AND / OR BEHALF OF OTHER (PROTECTED PERSON(S))

(Provide the name for each person added)

*Name:

*Name:

*Name:

*Name:

On this day, the Court considered the Applicant's application for a temporary ex parte order filed pursuant to Title 4, Family Code, and/or Chapter 7B, Code of Criminal Procedure.

I. FINDINGS AND ORDERS

(Mark one)

After considering the application and any testimony of the Applicant or other protected persons, if required, the Court:

- (A) ☒ **FINDS** that there is a clear and present danger of family violence, as defined by Section 71.004, Family Code. **THEREFORE**, the Court grants the application and issues this Temporary Ex Parte Order. No bond is required.

- (B) ☐ **FINDS** that there is a clear and present danger of sexual assault or abuse, indecent assault, stalking, trafficking, or other harm to Applicant. **THEREFORE**, the Court grants the application and issues this Temporary Ex Parte Order. No bond is required.
- (C) ☐ **FINDS** that there is a clear and present danger of sexual assault or abuse or other harm to the Applicant, in light of the military protective order issued to the Applicant because the Applicant is a reported victim of sexual assault, indecent assault, or aggravated sexual assault. **THEREFORE**, the Court grants the application and issues this Temporary Ex Parte Order. No bond is required.

II. RELATIONSHIP OF PARTIES

The Court **FINDS** that the Applicant and the Respondent are related in the following manner:
(Mark all that apply)

- | | |
|--|--|
| ☐ No relationship | ☐ Parent-child relationship |
| ☐ Current or former spouses | ☐ Foster parent - foster child relationship |
| ☒ Current or former dating partners | ☐ Applicant is dating or married to Respondent's current or former spouse or dating partner |
| ☐ Are or were members of the same family or household | |
| ☐ Parents of the same child(ren) | |
| ☐ Relatives | |

III. CONDITIONS AND TERMS OF ORDER

(Mark all conditions and terms that apply)

The Court **FINDS** that the following conditions and terms are necessary or appropriate to prevent or reduce the likelihood of family violence and/or future harm to the Applicant, members of the Applicant's family or household, and other protected persons. **THEREFORE**, the Court **ORDERS** the Respondent to obey the conditions and terms marked below. **The Respondent must:**

- (A) ☒ **NOT** commit further acts of family violence, as defined in Section 71.004, Family Code, against a person protected by this Order or a member of the family or household of a person protected by this Order (including acts intended to result in physical harm, bodily injury, assault or sexual assault, or threats reasonably placing a person in fear of physical harm, bodily injury, assault or sexual assault). (TCIC Form PCO-01)
- (B) ☒ **NOT** communicate in any manner with a person protected by this Order or a member of the family or household of a person protected by this Order, except through a protected person's attorney or a person appointed by the Court. The name of the attorney or person appointed by the Court is: Attorney Matthew Gipson The Court **FINDS** that good cause exists to prohibit direct communication from the Respondent. (TCIC Form PCO-08)
- (C) ☒ **NOT** communicate in a threatening or harassing manner, directly or indirectly, with a person protected by this Order or a member of the family or household of a person protected by this Order. (TCIC Form PCO-05)
- (D) ☒ **NOT** communicate a threat through any person to a person protected by this Order or a member of the family or household of a person protected by this Order. (TCIC Form PCO-05)
- (E) ☒ **NOT** go to or within 150 yards of the residence or place of employment or business of a person protected by this Order or a member of the family or household of a person protected by this Order. (TCIC Form PCO-04) The addresses and telephone numbers of the prohibited locations are: (Mark one)
- ☐ **CONFIDENTIAL BY ORDER OF THIS COURT.** The Court **ORDERS** the clerk to strike the addresses and telephone numbers, if provided, from the public records of the Court and maintain a confidential record of the information for use only by the Court or law enforcement for the purpose of entering the information required by Section 411.042(b)(6), Government Code, into the statewide law enforcement information system maintained by the Texas

Department of Public Safety.

☐ **DISCLOSED AS FOLLOWS:** *(Enter the addresses below)*

Residence: _____

Place of Employment/Business: _____ ;

(F) ☐ **NOT** go to or within _____ yards of the child-care facility or school of a person protected by this Order. (TCIC Form PCO-04) The addresses and telephone numbers of the prohibited locations are:
(Mark one)

☐ **CONFIDENTIAL BY ORDER OF THIS COURT.** The Court **ORDERS** the clerk to strike the addresses and telephone numbers, if provided, from the public records of the Court and maintain a confidential record of the information for use only by the Court or law enforcement for the purpose of entering the information required by Section 411.042(b)(6), Government Code, into the statewide law enforcement information system maintained by the Texas Department of Public Safety.

☐ **DISCLOSED AS FOLLOWS:** *(Enter the addresses below)*

Child-care facility: _____

School: _____ ;

(G) ☒ **NOT** go within 150 yards of a person protected by this Order or a member of the family or household of a person protected by this Order, except as authorized by this Order. (TCIC Form PCO-08)

(H) ☒ **NOT** engage in conduct that is directed specifically toward and reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass a person protected by this Order or a member of the family or household of a person protected by this Order, including following or causing another person to follow the person protected by this Order. (TCIC Form PCO-01)

(I) ☒ **NOT** take, harm, threaten, or interfere with the care, custody, or control of the following pet or companion or assistance animal: 8 horses and 4 dogs located on the real property
(TCIC Form PCO-08). *(Enter the name or description of the pet or animal)*

(J) ☒ **NOT** transfer, encumber, or otherwise dispose of property mutually owned or leased by the parties, except when done so in the ordinary course of business. (TCIC Form PCO-08)

(K) ☒ **NOT** track or monitor the personal property or motor vehicle in the possession of a person protected by this Order or a member of the family or household of a person protected by this Order, without the person's effective consent, including not tracking or monitoring the person with a tracking device or application, or by physically following the person. (TCIC Form PCO-01)

(L) ☒ **NOT** possess a firearm or ammunition, unless the Respondent is a peace officer actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision. (TCIC Form PCO-07)

(M) ☐ **NOT** close, limit access to, or otherwise tamper with the telephone service account associated with the following mobile numbers and their associated mobile devices until this Court determines the primary user of the mobile numbers and associated devices. (TCIC Form PCO-08)

_____	☐ my phone number	☐ child's phone number
_____	☐ my phone number	☐ child's phone number
_____	☐ my phone number	☐ child's phone number

(A sheet may be attached with additional numbers)

The Court **ORDERS** the clerk to remove from the public records of the Court the telephone numbers of persons protected by this Order.

IV. RESPONDENT'S EXCLUSION FROM RESIDENCE
(Mark the box if ordering the Respondent to vacate the residence)

☒ After considering the Applicant's sworn affidavit or declaration and in person testimony, the Court **FINDS** that the Applicant currently resides at the residence referenced below, or resided there within 30 days prior to filing the application for a protective order, and that the Respondent committed family violence against a member of the household within 30 days prior to the filing of the application. The Court further **FINDS** that there is a clear and present danger that the Respondent is likely to commit family violence against a member of the household. **THEREFORE**, effective immediately, the Respondent is **ORDERED** to vacate the residence located at:

157 CR 1380, Alvord, Texas and 1629 Hubbard, Alvord, Texas

and to return one time under the escort of law enforcement to retrieve the Respondent's necessary personal property. The Applicant is granted exclusive use and possession of the residence until further Order of this Court. (TCIC Form POC-03)

The Respondent shall not interfere with the Applicant's use of the residence, including, but not limited to, disconnecting the utilities or telephone service or causing such services to be disconnected. (TCIC Form POC-08)

V. ORDER REGARDING LAW ENFORCEMENT ASSISTANCE

If this Order excludes the Respondent from the residence, the Court **ORDERS** the Sheriff, Constable, or Chief of Police to provide a law enforcement officer to:

- (1) Accompany the Applicant or the person granted possession of the residence to the residence identified above.
- (2) Inform the Respondent that the Court has ordered the Respondent excluded from the residence.
- (3) Protect the Applicant or person granted possession of the residence while the Applicant or person takes possession of the residence.
- (4) Protect the Applicant or person granted possession of the residence while the Applicant or person takes possession of his or her necessary personal property, if the Respondent refuses to vacate the residence.

VI. COSTS

The Court prohibits any person or agency, including a clerk of the court, sheriff, constable, or other public official or employee, from assessing the Applicant a fee, cost, charge, or expense in connection with the filing, serving, or entering of this Protective Order. (Sec. 81.002, Family Code)

VII. ADDITIONAL / SPECIAL ORDER(S)

(Mark one)

(A) ☐ None are entered.

(B) ☒ The Court enters the following **ADDITIONAL OR SPECIAL ORDER**:

Respondent must NOT take or use Protected Person's 2017 Ford F350 (last 5 of VIN 17490);
Respondent must NOT take or use Protected Person's desktop computer.

VIII. WARNINGS

A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500.00 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH.

NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER.

IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY § 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION.

IF A PERSON SUBJECT TO A PROTECTIVE ORDER IS RELEASED FROM CONFINEMENT OR IMPRISONMENT FOLLOWING THE DATE THE ORDER WOULD HAVE EXPIRED, OR IF THE ORDER WOULD HAVE EXPIRED NOT LATER THAN THE FIRST ANNIVERSARY OF THE DATE THE PERSON IS RELEASED FROM CONFINEMENT OR IMPRISONMENT, THE ORDER IS AUTOMATICALLY EXTENDED TO EXPIRE ON:

- (1) THE FIRST ANNIVERSARY OF THE DATE THE PERSON IS RELEASED, IF THE PERSON WAS SENTENCED TO CONFINEMENT OR IMPRISONMENT FOR A TERM OF MORE THAN FIVE YEARS; OR**
- (2) THE SECOND ANNIVERSARY OF THE DATE THE PERSON IS RELEASED, IF THE PERSON WAS SENTENCED TO CONFINEMENT OR IMPRISONMENT FOR A TERM OF FIVE YEARS OR LESS.**

A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS.

(Applies to Orders issued under Title 4, Family Code)

IF THIS ORDER IS GRANTED PURSUANT CHAPTER 7B, CODE OF CRIMINAL PROCEDURE, A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT RESULTS IN A SEPARATE OFFENSE MAY BE PROSECUTED AS A SEPARATE OFFENSE IN ADDITION TO A VIOLATION OF THIS ORDER. *(Applies to Orders issued under Subchapter A, Chapter 7B, Code of Criminal Procedure)*

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT YOU TO FEDERAL CRIMINAL PENALTIES. THIS PROTECTIVE ORDER IS ENFORCEABLE IN ALL FIFTY STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS, AND U.S. TERRITORIES.

IX. WRITTEN ADMONITION ON INELIGIBILITY TO POSSESS FIREARM OR AMMUNITION

In accordance with 1 Texas Administrative Code § 176.1, the Court hereby admonishes you of the following:

- 1. You are, by entry of this Order or Judgment, ineligible under Texas law to possess a firearm or ammunition.**
- 2. Beginning now, if you possess a firearm or ammunition it could lead to charges against you. If you have questions about how long you will be ineligible to possess a firearm or ammunition, you should consult an attorney.**

3. Under Texas Penal Code § 46.01(3):
- a. "Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.
 - b. "Firearm" does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by Penal Code Chapter 46 and that is (1) an antique or curio firearm manufactured before 1899 or (2) a replica of an antique or curio firearm manufactured before 1899 but only if the replica does not use rim fire or center fire ammunition.

For more information about the laws that make you ineligible to possess a firearm or ammunition, or for more information on how long your ineligibility to possess a firearm or ammunition lasts, the Court recommends you contact an attorney. For your reference, you may wish to consult the statutes listed below, which may or may not apply to your circumstances:

- Code of Criminal Procedure Article 17.295—Magistrate's Order for Emergency Protection
- Code of Criminal Procedure Article 27.14(e)(1)—Plea of Guilty or Nolo Contendere in Misdemeanor
- Code of Criminal Procedure Article 42.0131—Notice for Persons Convicted of Misdemeanors Involving Family Violence
- Penal Code § 46.02—Unlawful Carrying Weapons
- Penal Code § 46.04—Unlawful Possession of Firearm
- Penal Code § 25.07—Violation of Certain Court Orders or Conditions of Bond in a Family Violence, Child Abuse or Neglect, Sexual Assault or Abuse, Indecent Assault, Stalking, or Trafficking Case
- Family Code § 85.026—Warning on Protective Order

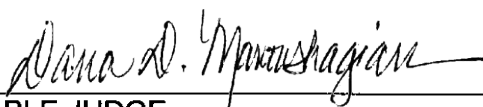
IX. CONFLICTING ORDERS

During the time this Order is valid, it prevails over any other court order entered under Title 5 (The Parent-Child Relationship and The Suit Affecting The Parent-Child Relationship) of the Family Code to the extent of any conflict between the orders.

X. DURATION OF PROTECTIVE ORDER

This Order expires on October 14, 2024 . (Duration cannot exceed 20 days)

Signed on 9/24/2024



HONORABLE JUDGE
JUDGE PRESIDING

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Matthew Gipson

Bar No. 24141519

mgipson@stevenmwilliams.com

Envelope ID: 92311457

Filing Code Description: Proposed Order

Filing Description: AMENDED TEMPORARY EX PARTE ORDER

Status as of 9/23/2024 10:34 AM CST

Associated Case Party: DARCYANNEGUSSE

Name	BarNumber	Email	TimestampSubmitted	Status
MATTHEW GIPSON		mgipson@stevenmwilliams.com	9/23/2024 8:54:15 AM	SENT
GAYLE WILLIAMS		gayle.williamsgipson@gmail.com	9/23/2024 8:54:15 AM	SENT